

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANTONIO LAWAN BRINTLEY,

Plaintiff,
v.

Civil Action No. 05-74921-DT
HON. VICTORIA A. ROBERTS

CATHY McCONNELL, et. al.,

Defendants,
_____ /

**OPINION AND ORDER DENYING THE
MOTION FOR RELIEF FROM JUDGMENT**

On January 26, 2006, this Court dismissed Plaintiff Antonio Lawan Brintley's *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983, on the ground that Plaintiff failed to state a claim upon which relief could be granted. Plaintiff has now filed a Motion for Relief From Judgment. For the reasons stated below, the Motion For Relief From Judgment is **DENIED**.

Under Fed. R. Civ. P. 60(b), a motion for relief from judgment can be granted for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or,

(6) any other reason justifying relief from the operation of the judgment.

The party that seeks to invoke Rule 60(b) bears the burden of establishing that its prerequisites are satisfied. *See Jinks v. AlliedSignal, Inc.*, 250 F. 3d 381, 385 (6th Cir. 2001). A Rule 60(b) motion is properly denied where the movant attempts to use the motion to relitigate the merits of a claim and the allegations are unsubstantiated. *See Miles v. Straub*, 90 Fed. Appx. 456, 458 (6th Cir. 2004). A movant under Rule 60(b) likewise fails to demonstrate entitlement to relief when he or she simply rephrases the prior allegations that were contained in the original complaint. *See Johnson v. Unknown Dellatifa*, 357 F. 3d 539, 543 (6th Cir. 2004).

In the present case, Plaintiff's motion does not entitle him to relief, because it merely reiterates the allegations that he made in his original complaint. *See Johnson*, 357 F. 3d at 543. Plaintiff is merely attempting to relitigate an issue that was already decided against him adversely by this Court. Accordingly, he is not entitled to relief from judgment.

IT IS HEREBY ORDERED that Plaintiff's Motion for Relief From Judgment is **DENIED**.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: February 24, 2006

The undersigned certifies that a copy of this document was served on the attorneys of record and plaintiff by electronic means or U.S. Mail on February 24, 2006.

s/Carol A. Pinegar
Deputy Clerk